

IN THE HIGH COURT OF JUDICATURE,
ANDHRA PRADESH:AT HYDERABAD.
(SPECIAL ORIGINAL JURISDICTION)
FRIDAY, THE EIGHTEENTH DAY OF JUNE,
TWO THOUSAND FOUR.

PRESENT:

THE HONOURABLE SRI JUSTICE R. SUBHASH REDDY

WRIT PETITION. No. 1868 OF 1999.

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Between

Ganje Purushotham

.....Petitioner

and

1. The Mandal Revenue Officer, Ramachandrapuram, E.G.Dist.

2. Roads & Buildings Department, Rajahmundry Division,

rep. By its Executive Engineer, Rajahmundry, E.G.Dist.

.....Respondents.

Petition under Article 226 of the Constitution of India, praying that in the circumstances stated in the affidavit filed herein, the High Court will be pleased to issue a Writ, Order or direction, more particularly one in the nature of Writ of Mandamus, declaring the action of the respondents in seeking to evict the petitioner from the land in S.No. 273, Ramachandrapuram, bearing H.No.28.1.28/1, Rajagopal Centre, Uttam Tailors, Without resorting to the procedure laid down in the Land Encroachment Act, as illegal and void and consequently to direct the respondents to consider the case of the petitioner for assignment of the land in his favour and not to dispossess him from the peaceful possession and enjoyment of the land in question.

FOR THE PETITIONER: Mummaneni Srinivasa Rao,

Advocate.

FOR THE RESPONDENTS NO.1.G.P. FOR Revenue

NO.2. G.P. for R&B.

The Court made the following ORDER:

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This Writ Petition is filed, seeking Writ of Mandamus, to declare the action of the respondents in seeking to evict the petitioner from the premises bearing H.No. 28.1.28/1, situated in Sy.No. 273 of Ramachandrapuram, Rajgopal Centre, East Godavari district without resorting to the procedure under the provisions of Land Encroachment Act, 1905, as illegal and arbitrary.

It is the case of the petitioner that he is in possession of 40 square yards situated in Sy.No. 273 of Ramachandrapuram from 1986 onwards. It is his case that he is running tailoring shop, in the name and style of 'Uttam Tailors' in the said premises. It is the grievance of the petitioner that the respondents are taking steps, to demolish the structures existing in the land in question, and, evict the petitioner, without resorting to the procedure under the provisions of the Land Encroachment Act, 1905 and without issuing notice and conducting enquiry.

At the stage of admission, this Court, by order dated 3-2-1990 granted interim order, directing the respondents not to demolish the structures existing in the land in question.

Though the Writ Petition is of the year 1999, no counter affidavit is filed.

According to the petitioner, he is in possession of the premises existing in the land in question from 1986 and the said premise is given Municipal H.No.

28/1/28/1. It is to be seen, even for removal of encroachments, procedure envisaged in the provisions of Land Encroachment Act, 1905, has to be followed. In that view of the matter, if the petitioner is in possession of the premises existing in the land in question, the respondents are directed not to take steps for eviction of the petitioner, as otherwise than due process of law.

Subject to the above direction, the Writ Petition is disposed of. No costs.

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Assistant Registrar.

//True Copy//

Section Officer.

To

1. The Mandal Revenue Officer, Ramachandrapuram Mandal, East Godavari district.
2. The Executive Engineer, Roads & Buildings Department, Rajahmundry division, Rajahmundry, E.G. District.
3. Two ccs to Government Pleader for LA.
4. One spare
5. One CD copy.
6. One cc to M.Srinivasa Rao, Advocate (OPUC)

Msnr.